

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

*Ahold USA, Inc., et al. v. Actavis
Holdco U.S., Inc. et al.*

*1199SEIU Nat'l Benefit Fund, et
al. v. Actavis Holdco US, Inc.*

*Humana Inc. v. Actavis Elizabeth,
LLC et al.*

*West Val Pharm., et al. v. Actavis
Holdco U.S., Inc.*

*The Kroger Co., et al. v. Actavis
Holdco U.S., Inc.*

*Marion Diagnostic Center, LLC,
et al. v. McKesson Corp., et al.*

*The State Attorneys General
Litigation*

MDL 2724
16-md-2724

HON. CYNTHIA M. RUFFE

Civil Action Nos.

18-2641
18-2401
18-3299
18-2533
18-284
18-4137
17-3768

ORAL ARGUMENT REQUESTED

**DEFENDANTS' JOINT MOTION TO DISMISS
PLAINTIFFS' OVERARCHING CONSPIRACY CLAIMS**

Pursuant to Fed. R. Civ. P. 12(b)(6), the Defendants identified herein hereby move to dismiss the following with prejudice:

1. With respect to the Direct Purchaser Plaintiffs' First Amended Complaint [No. 18-2641, Dkt. 11], Defendants¹ hereby move to dismiss the Complaint;
2. With respect to the End Payor Plaintiffs' Complaint [No. 18-2401, Dkt. 2], Defendants² hereby move to dismiss Counts One through Four "brought against all Defendants for their participation in an overarching conspiracy to fix, raise and/or stabilize the prices of the Drugs at Issue";
3. With respect to Plaintiff Humana, Inc.'s Amended Complaint [No. 18-3299, Dkt. 30], Defendants³ hereby move to dismiss Counts CVI-CX;

¹ Defendants in the Direct Purchaser Plaintiffs action are: Actavis Holdco U.S., Inc.; Apotex Corp.; Aurobindo Pharma USA, Inc.; Citron Pharma LLC; Dr. Reddy's Laboratories, Inc.; Fougera Pharmaceuticals Inc.; G&W Laboratories, Inc.; Glenmark Pharmaceuticals, Inc., USA; Heritage Pharmaceuticals, Inc.; Impax Laboratories, Inc.; Lannett Company, Inc.; Mylan Inc.; Mylan Pharmaceuticals, Inc.; Oceanside Pharmaceuticals, Inc.; Rajiv Malik; Par Pharmaceutical Company, Inc.

² Defendants in the End Payor Plaintiffs action are: Actavis Holdco U.S., Inc.; Actavis Elizabeth LLC; Actavis Pharma, Inc., Apotex Corp.; Aurobindo Pharma USA, Inc.; Barr Pharmaceuticals, LLC; Citron Pharma LLC; Dava Pharmaceuticals, LLC; Dr. Reddy's Laboratories, Inc.; Fougera Pharmaceuticals Inc.; Generics Bidco I, LLC; Glenmark Pharmaceuticals, Inc., USA; Heritage Pharmaceuticals, Inc.; Lannett Company, Inc.; Mayne Pharma Inc.; Mutual Pharmaceutical Co., Inc.; Mylan Inc.; Mylan Pharmaceuticals, Inc.; Par Pharmaceutical, Inc.; Perrigo New York, Inc.; Pliva, Inc.; Rajiv Malik; Sandoz, Inc.; Sun Pharmaceutical Ind., Inc.; Taro Pharmaceuticals U.S.A., Inc.; Teva Pharmaceuticals USA, Inc.; West-Ward Pharmaceuticals Corp.; and Zydus Pharmaceuticals (USA), Inc.

³ Defendants in the Humana action are: Actavis Elizabeth, LLC; Actavis Holdco US, Inc.; Actavis Pharma, Inc.; Akorn, Inc.; Apotex Corp., Breckenridge Pharmaceutical, Inc.; Dr. Reddy's Laboratories Inc., Endo International PLC; Epic Pharma, LLC; Fougera Pharmaceuticals Inc.; Glenmark Pharmaceuticals Inc., USA; Heritage Pharmaceuticals Inc.; Hi-Tech Pharmacal Co., Inc.; Impax Pharmaceuticals, LLC F/K/A Impax Pharmaceuticals, Inc.; Lannett Company, Inc.; Lupin Pharmaceuticals, Inc.; Mayne Pharma, Inc.; Morton Grove Pharmaceuticals, Inc.; Mylan Pharmaceuticals, Inc.; Mylan Inc.; Mylan N.V., Par Pharmaceutical Companies, Inc.; Perrigo Company PLC; Perrigo New York, Inc.; Sandoz, Inc.; Sun Pharmaceutical Industries, Inc.; Taro Pharmaceutical Industries Ltd.; Taro Pharmaceuticals USA, Inc.; Teligent, Inc.; Teva Pharmaceuticals USA, Inc.; UDL Laboratories, Inc.; Upsher-Smith Laboratories, LLC; West-Ward Pharmaceuticals Corp.; Wockhardt USA LLC; and Zydus Pharmaceuticals (USA) Inc.

4. With respect to the Indirect Reseller Plaintiffs' Amended Overarching Complaint [No. 18-2533, Dkt. 4], Defendants⁴ hereby move to dismiss Counts One through Four "brought against all Defendants for their participation in an overarching conspiracy to fix, raise and/or stabilize the prices of the Drugs at Issue";
5. With respect to Plaintiffs The Kroger Co., Albertsons Companies LLC, and H.E. Butt Grocery Company L.P.'s ("Kroger Plaintiffs") Complaint [No. 18-284, Dkt. 37], Defendants⁵ hereby move to dismiss Count One;
6. With respect to Plaintiffs Marion Diagnostic Center, LLC and Marion Healthcare, LLC's ("Marion Plaintiffs") First Amended Complaint [No. 18-4137, Dkt. 22], Defendants⁶ hereby move Counts I-XXVIII;

⁴ Defendants in the Indirect Reseller Plaintiffs action are identical to those in the End Payor Plaintiffs' action.

⁵ Defendants in the Kroger Plaintiffs' action are: Actavis Holdco U.S., Inc.; Actavis Pharma, Inc.; Akorn, Inc.; Apotex Corp.; Aurobindo Pharma USA, Inc.; Breckenridge Pharmaceutical, Inc.; Citron Pharma LLC; Dr. Reddy's Laboratories, Inc.; Epic Pharma, LLC; Fougera Pharmaceuticals, Inc.; G&W Laboratories, Inc.; Glenmark Pharmaceuticals Inc., USA; Heritage Pharmaceuticals, Inc.; Hi-Tech Pharmacal Co., Inc.; Impax Laboratories, Inc.; Lannett Company, Inc.; Lupin Pharmaceuticals, Inc.; Mayne Pharma USA Inc.; Morton Grove Pharmaceuticals, Inc.; Mylan Inc.; Mylan Pharmaceuticals, Inc.; Mylan N.V.; Oceanside Pharmaceuticals, Inc.; Par Pharmaceutical, Inc.; Perrigo New York, Inc.; Pliva, Inc.; Sandoz, Inc.; Sun Pharmaceutical Industries, Inc.; Taro Pharmaceuticals USA, Inc.; Teligent, Inc.; Teva Pharmaceuticals USA, Inc.; UDL Laboratories, Inc.; Upsher-Smith Laboratories, LLC; West-Ward Pharmaceuticals Corp.; Wockhardt USA LLC; Valeant Pharmaceuticals North America LLC; Valeant Pharmaceuticals International; and Zydus Pharmaceuticals (USA) Inc.

⁶ Defendants in the Marion Plaintiffs action are: Ascend Laboratories, LLC; Apotex Corp.; Aurobindo Pharma USA, Inc.; Citron Pharma, LLC; Dr. Reddy's Laboratories, Inc.; Glenmark Pharmaceuticals, Inc., USA; Heritage Pharmaceuticals, Inc.; Lannett Company, Inc.; Mayne Pharma Inc.; Mylan Inc.; Mylan Pharmaceuticals, Inc.; Par Pharmaceutical Companies, Inc.; Sandoz, Inc.; Sun Pharmaceutical Industries, Inc.; Teva Pharmaceuticals USA, Inc.; and Zydus Pharmaceuticals (USA) Inc.

7. With respect to the Plaintiff States' Consolidated Amended Complaint [No. 17-3768, Dkt. 15], Defendants⁷ hereby move to strike the joint and several liability allegations in Counts One through Eighteen.

In support of this Motion, Defendants rely upon Defendants' Memorandum of Law in Support of Their Motion to Dismiss Plaintiffs' Overarching Conspiracy Claims, which is being filed contemporaneously with this Motion. Certain Defendants are also contemporaneously filing Individual Motions and supplemental memoranda of law in further support of this Motion and their related Individual Motions as provided for in PTO 71 ¶ 5 (Dkt. No. 846).

For all the reasons set forth therein, Plaintiffs' conspiracy claims should be dismissed with prejudice.

Respectfully submitted,

⁷ Defendants in the State Attorneys General action are: Actavis Holdco, U.S., Inc.; Actavis Pharma, Inc.; Ascend Laboratories, LLC; Apotex Corp.; Aurobindo Pharma USA, Inc.; Citron Pharma, LLC; Dr. Reddy's Laboratories, Inc.; Glenmark Pharmaceuticals, Inc., USA; Heritage Pharmaceuticals, Inc.; Lannett Company, Inc.; Rajiv Malik; Mayne Pharma Inc.; Mylan Pharmaceuticals, Inc.; Par Pharmaceutical Companies, Inc.; Sandoz, Inc.; Sun Pharmaceutical Industries, Inc.; Teva Pharmaceuticals USA, Inc.; and Zydus Pharmaceuticals (USA), Inc.

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CERTIFICATE OF SERVICE

I hereby certify on this 1st day of March 2019, a true and correct copy of the foregoing was filed electronically and is available for viewing and downloading from the Court's ECF System. Notice of this filing will be sent to all counsel of record by operation of the ECF System.

/s/ *Julia Chapman*
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Dated: March 1, 2019